

County Council Of Howard County, Maryland

011 Legislative Session

Legislative Day No. 8

Resolution No. 122 -2011

Introduced by: The Chairperson at the request of the County Executive

A RESOLUTION approving the terms and conditions of a Payment in Lieu of Taxes Agreement by and between the Howard County Housing Commission and its successors and assigns and Howard County, Maryland for a multi-family rental housing redevelopment on the property to be known as Hilltop Phase I.

Introduced and read first time July 5, 2011.

By order Stephen M LeGendre
Stephen LeGendre, Administrator

Read for a second time at a public hearing on July 18, 2011.

By order Stephen M LeGendre
Stephen LeGendre, Administrator

This Resolution was read the third time and was Adopted ☐, Adopted with amendments ☒, Failed ☐, Withdrawn ☐, by the County Council on July 28, 2011.

Certified By Stephen M LeGendre
Stephen LeGendre, Administrator

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment

1 **WHEREAS**, the Howard County Housing Commission, a public body corporate and
2 politic, (the "Commission") is the current owner of certain real property located on Mt. Ida Drive
3 in Ellicott City Maryland which is currently improved to include a 94 unit residential
4 development for low income households known as the Hilltop Apartment Complex (the
5 "Apartments"); and
6

7 **WHEREAS**, the Commission proposes to redevelop the portion of the Property improved
8 by the Apartments, which redevelopment will include razing the Apartments and constructing and
9 operating a rental housing development comprised of approximately 198 multi-family, mixed-
10 income units to be known as Hilltop Phase I (the "Project"); and
11

12 **WHEREAS**, the Commission proposes to subdivide the Property and lease the portion of
13 the Property designated for the Project to a limited partnership, controlled by the Commission
14 through its ownership of the sole general partner, HCH Partners III, LLC, an existing Maryland
15 limited liability company; and
16

17 **WHEREAS**, the Commission will require that the lessee under the lease, and pursuant to
18 its limited partnership agreement, operate the Project to provide ~~94~~91 residential units for low
19 income persons; and
20

21 **WHEREAS**, in order to make the Project affordable, the Commission has requested that
22 the County abate all County real property taxes pursuant to Section 7-505 of the Tax-Property
23 Article of the Annotated Code of Maryland; and
24

25 **WHEREAS**, in order to promote housing for low income persons, the County agrees to
26 abate all County real property taxes, subject to the terms and conditions of the proposed Payment
27 in Lieu of Taxes Agreement, attached to this Resolution as "Exhibit 1".
28

29 **NOW, THEREFORE, BE IT RESOLVED** by the County Council of Howard County,
30 Maryland this 28th day of July, 2011, that:

- 1 (1) In accordance with Section 7-505 of the Tax-Property Article of the Annotated Code of
2 Maryland, the County shall abate all County real property taxes for the Project subject to
3 the terms and conditions of the Payment in Lieu of Taxes Agreement (the "Agreement")
4 attached to this Resolution as "Exhibit 1".
- 5 (2) The County Executive is hereby authorized to execute and deliver the Agreement in the
6 name and on behalf of the County in substantially the form attached.
- 7 (3) The County Executive, prior to execution and delivery of the Agreement, may make such
8 changes or modifications to the Agreement as he deems appropriate in order to
9 accomplish the purpose of the transactions authorized by this Resolution, provided that
10 such changes or modifications shall be within the scope of the transactions authorized by
11 this Resolution; and the execution of the Agreement by the County Executive shall be
12 conclusive evidence of the approval by the County Executive of all changes or
13 modifications to the Agreement, and the Agreement shall thereupon become binding
14 upon the County in accordance with its terms.

Amendment 1 to Council Resolution No. 122 -2011

**BY: Chairperson at the request
of the County Executive**

**Legislative Day No. 9
Date: July 28, 2011**

Amendment No. 1

(This amendment corrects the number of affordable units.)

- 1 On page 1, in line 18, strike "94" and substitute "91".
- 2
- 3 In the Payment in Lieu of Taxes Agreement, attached to the Resolution as Exhibit 1, remove
- 4 page 3 and substitute the revised page 3 as attached to this Amendment.

ADOPTED July 28, 2011
FAILED _____
SIGNATURE Stephen M. Fabian

PAYMENT IN LIEU OF TAXES AGREEMENT

THIS PAYMENT IN LIEU OF TAXES AGREEMENT (this "Agreement") is made as of this _____ day of _____, 2011, by and between the **HOWARD COUNTY HOUSING COMMISSION**, a public body corporate and politic (the "Commission") and **HOWARD COUNTY, MARYLAND**, a body corporate and politic of the State of Maryland (the "County").

RECITALS

A. The Commission is the fee simple owner of certain real property located on Mt. Ida Drive in Ellicott City, Howard County, Maryland pursuant to Deed from Howard County, Maryland dated April 7, 2011 and recorded among the Land Records of Howard County, Maryland (the "Land Records") at Liber 13174, folio 029 (the "Property"). *The existing improvements to the Property include a ninety-four (94) unit residential development for low income households known as the Hilltop Apartment Complex. The Commission plans to redevelop the Property, which redevelopment will include razing the Hilltop Apartment Complex and constructing and operating a one hundred ninety-eight (198) unit multi-family mixed-income housing development (the "Project").* The Commission proposes to subdivide the Property and lease the portion of the Property designated for the Project to a limited partnership (the "Partnership"), controlled by the Commission through its ownership of the sole general partner, HCH Partners III, LLC, an existing Maryland limited liability company. An additional proposed improvement to the Property is a public recreation center which will be separately financed and subdivided from the Project. An existing twenty-five (25) unit senior housing project known as the Tiber Hudson Senior Housing Project is also located on the Property and is not a part of the Hilltop redevelopment. The obligations, representations, and covenants of the Commission as set forth in this Agreement shall mean and include the Partnership as the lessee of the Project.

B. The Commission has applied for financing through the New Issue Bond Program with the Department of Housing and Community Development of the State of Maryland ("DHCD") for tax exempt bonds in the approximate amount of Twenty-five Million One Hundred Thousand Dollars (\$25,100,000.00) (the "New Issue Bond Loan") and a Partnership Rental Housing Program Loan in the approximate amount of Three Million Six Hundred Seventy-five Thousand Dollars (\$3,675,000.00) (the "PRHP Loan"), and to the Community Development Administration of the State of Maryland for Low Income Housing Tax Credits (LIHTC) in the approximate amount of Three Million Seven Hundred Twenty-eight Thousand Four Hundred Forty-seven Dollars (\$3,728,447.00) (the "LIHTC Equity") to fund a portion of the construction costs of the Project. Under the State programs, the Project will provide housing for low income persons. Also, under the government programs and this Agreement the Project will operate on a limited distribution basis.

C. The Commission has requested that the County permit the Commission to make payments in lieu of County real property taxes pursuant to Section 7-505 of the Tax-Property Article of the Annotated Code of Maryland (the "Act"). The Act provides, among other things, that real property may be exempt from County property tax if:

- (1) the real property is owned or leased by a person engaged in constructing or operating housing structures or projects;

(2) the real property is used for a housing structure or project that is constructed under a federal, State, or local government program that funds construction;

(3) the structures and facilities of the real property are governmentally-controlled as to rents, charges, rates of return, and methods of operation so that the real property operates on a nonprofit or limited distribution basis; and

(4) the owner and the governing body of the county where the real property is located agree that the owner shall pay a negotiated amount in lieu of the applicable county property tax.

D. In order to induce the Commission to provide housing for low income persons, the County agrees to abate all County real property taxes, subject to the terms and conditions of this Agreement.

E. The County Council of Howard County, Maryland has approved this Agreement by resolution, a copy of which is attached hereto as Exhibit "B".

NOW, THEREFORE, in consideration of the premises and the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Commission and the County agree as follows:

1. Definitions. In this Agreement the term:

(a) "Household of LIHTC Low Income" means a household whose annual income meets the requirements of the federal Low Income Housing Tax Credit program, 26 USC 42(g)(1)(B), which requires, among other things, that the initial annual income of an eligible household is sixty percent (60%) or less of the median income as set from time to time by the United States Department of Housing and Urban Development for Section 8 Programs in the Baltimore Metropolitan Statistical Area.

(b) "Initial Closing" means the date of the initial closing of the New Issue Bond Loan and the PRHP Loan.

2. Abatement of County Real Property Taxes.

(a) Beginning on July 1, 2011 and continuing for the term of this Agreement (as set forth in Section 7), all Howard County real property taxes for the Project shall be abated. Except for the County Assessments set forth in subsection (b), the Commission shall be exempt from paying the real property taxes assessed on the Project in accordance with the Act so long as this Agreement is in effect.

(b) The Commission shall pay to the County the full amount of any County fire tax, front-foot benefit assessment charge, ad valorem charge, and any other charges on the Project (the "County Assessments") as they become due on the Project.

3. Conditions Precedent. This Agreement shall not take effect unless and until each of the following conditions precedent have been fulfilled:

(a) Lease. The Partnership shall have a leasehold interest in the Project;

(b) Financing. The Commission shall have received the New Issue Bond Loan and the PRHP Loan for the construction of the Project; and

(c) PILOT Low Income Covenants. The Commission shall have executed and recorded covenants on the Project, in a form acceptable to the County, that require the Commission and all subsequent owners of the Projects to offer for rent not less than ninety-one (91) of the rental units in the Project to Households of LIHTC Low Income for a period of not less than forty-two (42) years from the date of Initial Closing (the "PILOT Low Income Covenants").

4. Effective Date. This Agreement shall take effect when each of the conditions precedent set forth in Section 2 are fulfilled (the "Effective Date"); provided, however, that if all of the conditions precedent are not fulfilled by December 31, 2011, this Agreement shall be null and void.

5. Reports and Records.

(a) By no later than March 31 of each year, the Commission shall submit to the County, in a form acceptable to the County, a report of the Project's income and expenses for the preceding calendar year.

(b) The Commission shall submit such other reports as the County may reasonably require in order to verify the Commission's compliance with this Agreement.

(c) The Commission shall permit the County or any of its authorized agents to inspect the records of the Project in order to verify the Commission's compliance with this Agreement.

6. Representations and Warranties.

(a) The Commission represents and warrants to the County that it is eligible in all respects to enter into this Agreement to make payments in lieu of taxes under the Act.

(b) The Commission covenants and agrees that it will do all things necessary to remain eligible to make payments in lieu of taxes in accordance with the Act.

7. Term of Agreement. This Agreement shall remain in effect until the earlier to occur of:

(a) the repayment of all principal and interest due under the New Issue Bond Loan;

(b) the repayment of all principal and interest due under the PRHP Loan;

(c) the foreclosure, or the making of a deed in lieu of foreclosure, of any portion of the Project;

(d) any default under the PILOT Low Income Covenants;

(e) June 30, 2053; or

(f) any default under this Agreement.

8. Sale; Liens; Commission Interests. During the term of this Agreement, the Commission shall not,

without the prior written consent of the County:

(a) sell or transfer any portion of the Project;

(b) permit any liens or encumbrances against the Project except as required by the financings described in this Agreement or entered into at the time of the Initial Closing; or

(c) Permit any general partner to sell, assign or otherwise transfer any partnership interest in the Partnership, other than the initial sale of limited partnership interests in the Partnership for tax credit purposes.

9. State Taxes. The Commission acknowledges and agrees that it shall pay all state real property taxes due with respect to the Project.

10. Successors and Assigns. This Agreement shall be binding upon, and shall inure to the benefit of, the Partnership and all successors and assigns of the Commission.

11. Entire Agreement. This Agreement represents the entire understanding and agreement of the parties.

IN WITNESS WHEREOF, the Commission and the County, by their duly authorized representatives have signed this Agreement as of the date first written above.

WITNESS/ATTEST:

HOWARD COUNTY HOUSING COMMISSION

Stacy L. Spann
Secretary

By: _____ (SEAL)
William A. Ross, Sr.
Chairman

ATTEST:

HOWARD COUNTY, MARYLAND

Lonnie Robbins
Chief Administrative Officer

By: _____
Ken Ulman
County Executive

APPROVED for Form and Legal
Sufficiency this _____ day
of _____, 2011.

APPROVED by Department of Finance:

Margaret Ann Nolan
County Solicitor

Sharon F. Greisz, Director

[Notaries on following page.]

STATE OF MARYLAND, HOWARD COUNTY, TO WIT:

I HEREBY CERTIFY that on this _____ day of _____, 2011, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared **William A. Ross, Sr.**, Chairman of the Howard County Housing Commission and he acknowledged that he executed the Payment in Lieu of Taxes Agreement for the purposes therein contained, and he further acknowledged the same to be the act of the Howard County Housing Commission.

AS WITNESS my Hand and Notarial Seal:

Notary Public

My Commission Expires:

STATE OF MARYLAND, HOWARD COUNTY, TO WIT:

I HEREBY CERTIFY that on this _____ day of _____, 2011, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared **Ken Ulman**, the County Executive of Howard County, Maryland, and he acknowledged that he executed the Payment in Lieu of Taxes Agreement for the purposes therein contained, and further acknowledged the same to be the act of Howard County, Maryland.

AS WITNESS my Hand and Notarial Seal:

Notary Public

My Commission Expires:

I CERTIFY THAT:

- (a) I am an attorney admitted to practice before the Court of Appeals of Maryland; and
- (b) I prepared the foregoing Payment in Lieu of Taxes Agreement.

Lisa S. O'Brien

Exhibit A: Project Description

Exhibit B: Council Resolution No. _____

PAYMENT IN LIEU OF TAXES AGREEMENT

EXHIBIT A

Exhibit A
Hilltop Property

County Site Name	Address	Tax Map	Parcel #	Lot #	Acreage	Election District	Tax Account #	Subdivision	Plat #'s	Land Record Information
Hilltop Housing	3663 Mt. Ida Drive	25	291	1	0.0780	2	256827	Fells Lane Urban Renewal Project, Ellipticott City	12/17-12/19	* (see below)
Hilltop Housing	3661 Mt. Ida Drive	25	291	2	0.0560	2	256835	Fells Lane Urban Renewal Project, Ellipticott City	12/17-12/19	* (see below)
Hilltop Housing	3659 Mt. Ida Drive	25	291	3	0.0560	2	256843	Fells Lane Urban Renewal Project, Ellipticott City	12/17-12/19	* (see below)
Hilltop Housing	3657 Mt. Ida Drive	25	291	4	0.0500	2	256851	Fells Lane Urban Renewal Project, Ellipticott City	12/17-12/19	* (see below)
Hilltop Housing	3655 Mt. Ida Drive	25	291	5	0.0500	2	256878	Fells Lane Urban Renewal Project, Ellipticott City	12/17-12/19	* (see below)
Hilltop Housing	3653 Mt. Ida Drive	25	291	6	0.0560	2	256886	Fells Lane Urban Renewal Project, Ellipticott City	12/17-12/19	* (see below)
Hilltop Housing	3651 Mt. Ida Drive	25	291	7	0.0775	2	256894	Fells Lane Urban Renewal Project, Ellipticott City	12/17-12/19	* (see below)
Hilltop Housing	3649 Mt. Ida Drive	25	291	8	0.0780	2	256908	Fells Lane Urban Renewal Project, Ellipticott City	12/17-12/19	* (see below)
Hilltop Housing	3621 Mt. Ida Drive	25	291	9	0.0840	2	256916	Fells Lane Urban Renewal Project, Ellipticott City	12/17-12/19	* (see below)
Hilltop Housing	3619 Mt. Ida Drive	25	291	10	0.0660	2	256924	Fells Lane Urban Renewal Project, Ellipticott City	12/17-12/19	* (see below)
Hilltop Housing	3617 Mt. Ida Drive	25	291	11	0.0690	2	256932	Fells Lane Urban Renewal Project, Ellipticott City	12/17-12/19	* (see below)
Hilltop Housing	3615 Mt. Ida Drive	25	291	12	0.0700	2	256940	Fells Lane Urban Renewal Project, Ellipticott City	12/17-12/19	* (see below)
Hilltop Housing	3613 Mt. Ida Drive	25	291	13	0.0640	2	256959	Fells Lane Urban Renewal Project, Ellipticott City	12/17-12/19	* (see below)
Hilltop Housing	3611 Mt. Ida Drive	25	291	14	0.0640	2	256967	Fells Lane Urban Renewal Project, Ellipticott City	12/17-12/19	* (see below)
Hilltop Housing	3609 Mt. Ida Drive	25	291	15	0.0640	2	256975	Fells Lane Urban Renewal Project, Ellipticott City	12/17-12/19	* (see below)
Hilltop Housing	3607 Mt. Ida Drive	25	291	16	0.1000	2	256983	Fells Lane Urban Renewal Project, Ellipticott City	12/17-12/19	* (see below)
Hilltop Housing	3591 Mt. Ida Drive	25	291	17	0.1000	2	256991	Fells Lane Urban Renewal Project, Ellipticott City	12/17-12/19	* (see below)
Hilltop Housing	3589 Mt. Ida Drive	25	291	18	0.0710	2	257009	Fells Lane Urban Renewal Project, Ellipticott City	12/17-12/19	* (see below)
Hilltop Housing	3587 Mt. Ida Drive	25	291	19	0.0640	2	257017	Fells Lane Urban Renewal Project, Ellipticott City	12/17-12/19	* (see below)
Hilltop Housing	3585 Mt. Ida Drive	25	291	20	0.0640	2	257025	Fells Lane Urban Renewal Project, Ellipticott City	12/17-12/19	* (see below)
Hilltop Housing	3624 Mt. Ida Drive	25	291	41	0.0800	2	257262	Fells Lane Urban Renewal Project, Ellipticott City	12/17-12/19	* (see below)
Hilltop Housing	3626 Mt. Ida Drive	25	291	42	0.0540	2	257270	Fells Lane Urban Renewal Project, Ellipticott City	12/17-12/19	* (see below)
Hilltop Housing	3628 Mt. Ida Drive	25	291	43	0.0500	2	257289	Fells Lane Urban Renewal Project, Ellipticott City	12/17-12/19	* (see below)
Hilltop Housing	3630 Mt. Ida Drive	25	291	44	0.0500	2	257297	Fells Lane Urban Renewal Project, Ellipticott City	12/17-12/19	* (see below)
Hilltop Housing	3632 Mt. Ida Drive	25	291	45	0.0500	2	257300	Fells Lane Urban Renewal Project, Ellipticott City	12/17-12/19	* (see below)
Hilltop Housing	3634 Mt. Ida Drive	25	291	46	0.0800	2	257319	Fells Lane Urban Renewal Project, Ellipticott City	12/17-12/19	* (see below)

Exhibit A
Hilltop Property

County Site Name	Address	Tax Map	Parcel #	Lot #	Acreage	Election District	Tax Account #	Subdivision	Plat #'s	Land Record Information
Hilltop Housing	3642 Mt. Ida Drive	25	291	47	0.0810	2	257327	Fells Lane Urban Renewal Project, Ellicott City	12/17-12/19	* (see below)
Hilltop Housing	3644 Mt. Ida Drive	25	291	48	0.0500	2	257335	Fells Lane Urban Renewal Project, Ellicott City	12/17-12/19	* (see below)
Hilltop Housing	3646 Mt. Ida Drive	25	291	49	0.0500	2	257343	Fells Lane Urban Renewal Project, Ellicott City	12/17-12/19	* (see below)
Hilltop Housing	3648 Mt. Ida Drive	25	291	50	0.0500	2	257351	Fells Lane Urban Renewal Project, Ellicott City	12/17-12/19	* (see below)
Hilltop Housing	3650 Mt. Ida Drive	25	291	51	0.0490	2	257378	Fells Lane Urban Renewal Project, Ellicott City	12/17-12/19	* (see below)
Hilltop Housing	3652 Mt. Ida Drive	25	291	52	0.0770	2	257386	Fells Lane Urban Renewal Project, Ellicott City	12/17-12/19	* (see below)
Hilltop Housing	Mt. Ida Drive	25	291	53, Open Space	1.6720	2	413892	Fells Lane Urban Renewal Project, Ellicott City	16815	* (see below)
Hilltop Housing	3583 Mt. Ida Drive	25	291	53	0.0590	2	257033	Fells Lane Urban Renewal Project, Ellicott City	22/97	* (see below)
Hilltop Housing	3581 Mt. Ida Drive	25	291	54	0.0590	2	257041	Fells Lane Urban Renewal Project, Ellicott City	22/97	* (see below)
Hilltop Housing	3579 Mt. Ida Drive	25	291	55	0.0640	2	257068	Fells Lane Urban Renewal Project, Ellicott City	22/97	* (see below)
Hilltop Housing	3577 Mt. Ida Drive	25	291	56	0.0830	2	257076	Fells Lane Urban Renewal Project, Ellicott City	22/97	* (see below)
Hilltop Housing	3584 Mt. Ida Drive	25	291	57	0.0870	2	257084	Fells Lane Urban Renewal Project, Ellicott City	22/97	* (see below)
Hilltop Housing	3586 Mt. Ida Drive	25	291	58	0.0550	2	257092	Fells Lane Urban Renewal Project, Ellicott City	22/97	* (see below)
Hilltop Housing	3588 Mt. Ida Drive	25	291	59	0.0470	2	257106	Fells Lane Urban Renewal Project, Ellicott City	22/97	* (see below)
Hilltop Housing	3590 Mt. Ida Drive	25	291	60	0.0470	2	257114	Fells Lane Urban Renewal Project, Ellicott City	22/97	* (see below)
Hilltop Housing	3592 Mt. Ida Drive	25	291	61	0.0470	2	257122	Fells Lane Urban Renewal Project, Ellicott City	22/97	* (see below)
Hilltop Housing	3594 Mt. Ida Drive	25	291	62	0.0470	2	257130	Fells Lane Urban Renewal Project, Ellicott City	22/97	* (see below)
Hilltop Housing	3596 Mt. Ida Drive	25	291	63	0.0470	2	257149	Fells Lane Urban Renewal Project, Ellicott City	22/97	* (see below)
Hilltop Housing	3598 Mt. Ida Drive	25	291	64	0.0670	2	257157	Fells Lane Urban Renewal Project, Ellicott City	22/97	* (see below)
Hilltop Housing	3606 Mt. Ida Drive	25	291	65	0.0740	2	257165	Fells Lane Urban Renewal Project, Ellicott City	22/97	* (see below)
Hilltop Housing	3608 Mt. Ida Drive	25	291	66	0.0470	2	257173	Fells Lane Urban Renewal Project, Ellicott City	22/97	* (see below)
Hilltop Housing	3610 Mt. Ida Drive	25	291	67	0.0470	2	257181	Fells Lane Urban Renewal Project, Ellicott City	22/97	* (see below)
Hilltop Housing	3612 Mt. Ida Drive	25	291	68	0.0470	2	257203	Fells Lane Urban Renewal Project, Ellicott City	22/97	* (see below)
Hilltop Housing	3614 Mt. Ida Drive	25	291	69	0.0470	2	257211	Fells Lane Urban Renewal Project, Ellicott City	22/97	* (see below)
Hilltop Housing	3616 Mt. Ida Drive	25	291	70	0.0470	2	257238	Fells Lane Urban Renewal Project, Ellicott City	22/97	* (see below)
Hilltop Housing	3618 Mt. Ida Drive	25	291	71	0.0470	2	257246	Fells Lane Urban Renewal Project, Ellicott City	22/97	* (see below)

Exhibit A Hilltop Property

County Site Name	Address	Tax Map	Parcel #	Lot #	Acres	Election District	Tax Account #	Subdivision	Plat #'s	Land Record Information
Hilltop Housing	3620 Mt. Ida Drive	25	291	72	0.0470	2	257254	Fells Lane Urban Renewal Project, Ellicott City	22/97	* (see below)
Hilltop Housing	3558, 3560, 3564, 3566, 3572, 3574 Mt. Ida Drive	25	291	73	1.4030	2	257408	Fells Lane Urban Renewal Project, Ellicott City	22/97	* (see below)
Hilltop Housing	3668, 3670, 3680, 3682, 3690 Mt. Ida Drive	25	291	Parcel 8	2.7720	2	413884	Fells Lane Urban Renewal Project, Ellicott City	16815	* (see below)
Hilltop Housing	Mt. Ida Drive	25	291	N/A	1.6850	2	257394	Fells Lane Urban Renewal Project, Ellicott City	12/17-12/19	* (see below)
Hilltop Housing	Mt. Ida Drive R/W	25		Road R/W	Approx. 1.807	2	N/A	Fells Lane Urban Renewal Project, Ellicott City	12/17-12/19	* (see below)
Hilltop Housing	Mt. Ida Drive (Hilltop parking areas)	25		Parking	Approx. 1.172	2	N/A	Fells Lane Urban Renewal Project, Ellicott City	12/17-12/19, 22/97 16815	* (see below)

* The land which makes up the Hilltop Housing property was acquired by the following deeds:

Libert/Folio	Date	Grantor
438/595	6/29/1965	Samuel M. Pistorio and Constance V. Pistorio
438/267	6/17/1965	Stephen H. Gover and William E. Gover
438/279	6/22/1965	Frederick A. Richards and Dorothy J. Richards
438/275	6/22/1965	Charles T. Martin and Martha B. Martin
437/323	6/10/1965	Joseph Isaac Winkles and Mary Elizabeth Winkles
425/358	9/10/1964	Board of Education of Howard County
438/271	6/22/1965	Arthur P. Hammond and Winifred B. Hammond
456/445	7/14/1966	Samuel M. Pistorio and Constance V. Pistorio
477/718	10/24/1967	Samuel M. Pistorio and Constance V. Pistorio
456/448	7/14/1966	Samuel M. Pistorio and Constance V. Pistorio

County Council Of Howard County, Maryland

2011 Legislative Session

Legislative Day No. 8

Resolution No. 122-2011

Introduced by: The Chairperson at the request of the County Executive

A RESOLUTION approving the terms and conditions of a Payment in Lieu of Taxes Agreement by and between the Howard County Housing Commission and its successors and assigns and Howard County, Maryland for a multi-family rental housing redevelopment on the property to be known as Hilltop Phase I.

Introduced and read first time _____, 2011.

By order _____
Stephen LeGendre, Administrator

Read for a second time at a public hearing on _____, 2011.

By order _____
Stephen LeGendre, Administrator

This Resolution was read the third time and was Adopted __, Adopted with amendments __, Failed __, Withdrawn __, by the County Council on _____, 2011.

Certified By _____
Stephen LeGendre, Administrator

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment

1 **WHEREAS**, the Howard County Housing Commission, a public body corporate and
2 politic, (the "Commission") is the current owner of certain real property located on Mt. Ida Drive
3 in Ellicott City Maryland which is currently improved to include a 94 unit residential
4 development for low income households known as the Hilltop Apartment Complex (the
5 "Apartments"); and

6
7 **WHEREAS**, the Commission proposes to redevelop the portion of the Property improved
8 by the Apartments, which redevelopment will include razing the Apartments and constructing and
9 operating a rental housing development comprised of approximately 198 multi-family, mixed-
10 income units to be known as Hilltop Phase I (the "Project"); and

11
12 **WHEREAS**, the Commission proposes to subdivide the Property and lease the portion of
13 the Property designated for the Project to a limited partnership, controlled by the Commission
14 through its ownership of the sole general partner, HCH Partners III, LLC, an existing Maryland
15 limited liability company; and

16
17 **WHEREAS**, the Commission will require that the lessee under the lease, and pursuant to
18 its limited partnership agreement, operate the Project to provide 94 residential units for low
19 income persons; and

20
21 **WHEREAS**, in order to make the Project affordable, the Commission has requested that
22 the County abate all County real property taxes pursuant to Section 7-505 of the Tax-Property
23 Article of the Annotated Code of Maryland; and

24
25 **WHEREAS**, in order to promote housing for low income persons, the County agrees to
26 abate all County real property taxes, subject to the terms and conditions of the proposed Payment
27 in Lieu of Taxes Agreement, attached to this Resolution as "Exhibit 1".

28
29 **NOW, THEREFORE, BE IT RESOLVED** by the County Council of Howard County,
30 Maryland this ____ day of _____, 2011, that:

- 1 (1) In accordance with Section 7-505 of the Tax-Property Article of the Annotated Code of
2 Maryland, the County shall abate all County real property taxes for the Project subject to
3 the terms and conditions of the Payment in Lieu of Taxes Agreement (the "Agreement")
4 attached to this Resolution as "Exhibit 1".
- 5 (2) The County Executive is hereby authorized to execute and deliver the Agreement in the
6 name and on behalf of the County in substantially the form attached.
- 7 (3) The County Executive, prior to execution and delivery of the Agreement, may make such
8 changes or modifications to the Agreement as he deems appropriate in order to
9 accomplish the purpose of the transactions authorized by this Resolution, provided that
10 such changes or modifications shall be within the scope of the transactions authorized by
11 this Resolution; and the execution of the Agreement by the County Executive shall be
12 *conclusive evidence of the approval by the County Executive of all changes or*
13 *modifications to the Agreement, and the Agreement shall thereupon become binding*
14 *upon the County in accordance with its terms.*

(b) Financing. The Commission shall have received the New Issue Bond Loan and the PRHP Loan for the construction of the Project; and

(c) PILOT Low Income Covenants. The Commission shall have executed and recorded covenants on the Project, in a form acceptable to the County, that require the Commission and all subsequent owners of the Projects to offer for rent not less than ninety four (94) of the rental units in the Project to Households of LIHTC Low Income for a period of not less than forty-two (42) years from the date of Initial Closing (the "PILOT Low Income Covenants").

4. Effective Date. This Agreement shall take effect when each of the conditions precedent set forth in Section 2 are fulfilled (the "Effective Date"); provided, however, that if all of the conditions precedent are not fulfilled by December 31, 2011, this Agreement shall be null and void.

5. Reports and Records.

(a) By no later than March 31 of each year, the Commission shall submit to the County, in a form acceptable to the County, a report of the Project's income and expenses for the preceding calendar year.

(b) The Commission shall submit such other reports as the County may reasonably require in order to verify the Commission's compliance with this Agreement.

(c) The Commission shall permit the County or any of its authorized agents to inspect the records of the Project in order to verify the Commission's compliance with this Agreement.

6. Representations and Warranties.

(a) The Commission represents and warrants to the County that it is eligible in all respects to enter into this Agreement to make payments in lieu of taxes under the Act.

(b) The Commission covenants and agrees that it will do all things necessary to remain eligible to make payments in lieu of taxes in accordance with the Act.

7. Term of Agreement. This Agreement shall remain in effect until the earlier to occur of:

(a) the repayment of all principal and interest due under the New Issue Bond Loan;

(b) the repayment of all principal and interest due under the PRHP Loan;

(c) the foreclosure, or the making of a deed in lieu of foreclosure, of any portion of the Project;

(d) any default under the PILOT Low Income Covenants;

(e) June 30, 2053; or

(f) any default under this Agreement.

8. Sale; Liens; Commission Interests. During the term of this Agreement, the Commission shall not,